

# FCC Form 740 Importation Filings for Radio Frequency Devices Will Be Temporarily Suspended Late Next Year

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Imported Radio Frequency (RF) devices must be compliant with the Federal Communications Commission's (FCC or Commission) equipment authorization rules, but importers can look forward to some relief in their paperwork next year. These entities will receive a 6-month and possibly longer break from filing [FCC Form 740](#) (Form 740) documentation with Customs and Border Protection (CBP) or the FCC. Today, the FCC published a [Suspension Order](#) in the Federal Register announcing it will temporarily waive the filing requirements associated with Form 740 on imported RF devices, effective July 1, 2016 through December 31, 2016.

CBP is deploying a new electronic filing system, the Automated Commercial Environment (ACE), which will not be capable of accepting Form 740 information without significant modification and which is only scheduled to become completely operational as of December 2016. Currently, all FCC Form 740 filings are made electronically through CBP's current system, the Automated Commercial System (ACS), with only relatively few filings made via paper with CBP and the FCC. The ACS is scheduled to no longer accept electronic filings of Form 740 as of July 1, 2016. Without a waiver, and until the ACE can accept Form 740, the Commission expects a massive influx of paper filings after July 1, 2016, upwards of 20,000 filings at both the FCC and CBP, a tremendous burden on both filers and agencies alike. The Commission is therefore suspending the required documentation and submission rules (47 USC §§ 2.2103 and 2.1205) so as to avoid uncertainty as to how soon after December 31, 2016 the ACE may be able to accept Form 740.

To be clear, until July 1, 2016, entities importing RF devices must continue to submit declarations to CBP either by completing Form 740 and attaching a copy to its customs import papers at ports of entry or by submitting the required information electronically with its entry documentation submission through the ACS.

In a [Notice of Proposed Rulemaking](#) adopted in July of this year, the Commission proposed to amend the required declaration rule (§ 2.1203) and remove the filing requirements (§2.1205). Given the complexity of the rulemaking, the Commission opted to clarify that it is temporarily suspending the

rules for six months as of June 31, 2106, giving itself time to further investigate whether to eliminate, modify or retain the two rules.

During the six month suspension, the restrictions on marketing RF devices, including importation of such devices, will still apply fully. In short, importers would do well to keep in mind that they must still comply with FCC's marketing rules for RF devices under § 2.803: "no person may market a radio frequency device" unless the device has either been authorized and is properly identified and labeled; complies with all technical labeling, identification and administrative requirements; or for those devices not requiring an equipment authorization but compliance with specified technical standards prior to use, complies with all applicable, technical, labeling, identification, and administrative requirements." (Certain exemptions from the marketing rule exist.) In addition, the Suspension Order will not prevent FCC representatives from inspecting or testing any imported RF device for compliance with the technical rules. And any required importation-related filings with other federal agencies that may regulate particular RF devices are unaffected by the FCC's Suspension Order. Nonetheless, importers will no doubt appreciate the break from this one piece of bureaucratic red-tape.

The Commission will likely publish more on the fate of Sections 2.2103 and 2.2105 as it progresses in its analysis. Importers should keep abreast of Commission decisions whether to extend the waiver regarding Form 740 (which the FCC's Office of Engineering and Technology (OET) has received delegated authority to do through the end of the current rulemaking), make the suspension permanent, or resume or modify the obligations to submit the Form, so as to be sure of their obligations come January 1, 2017.